

Crimes Amendment Act 2003

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The Parliament of New Zealand enacts as follows:

1 Title

- (1) This Act is the Crimes Amendment Act 2003.
- (2) In this Act, the Crimes Act 1961 is called “the principal Act”.

2 Commencement

This Act comes into force on 1 October 2003.

Part 1**Amendments to principal Act***Provisions affected by changes to crimes against rights of property***3 Short Title, commencement, etc**

Section 1(3) of the principal Act is amended by omitting the words “Part 10-Crimes Against Rights of Property. (Sections 217 to 305.)”, and substituting the words “Part 10-Crimes against rights of property (sections 217 to 272)”.

4 Interpretation

- (1) Section 2(1) of the principal Act is amended by repealing the definition of **colour of right**, and substituting the following definition:

“**claim of right**, in relation to any act, means a belief that the act is lawful, although that belief may be based on ignorance or mistake of fact or of any matter of law other than the enactment against which the offence is alleged to have been committed.”

- (2) Section 2(1) of the principal Act is amended by repealing the definition of **crime involving dishonesty**, and substituting the following definition:

“**crime involving dishonesty** means any crime described in Part 10 except the crimes described in sections 267 to 272.”

- (3) Section 2(1) of the principal Act is amended by inserting in the definition of **property**, after the words “or personal property,”, the words “money, electricity,”.

- (4) Section 2(1) of the principal Act is amended by repealing the definition of **valuable security**.

5 Compulsion

Section 24(2) of the principal Act is amended by repealing paragraphs (k) to (l), and substituting the following paragraphs:

“(k) section 234 (robbery):

“(l) section 235 (aggravated robbery):

“(m) section 267 (arson).”

6 Forcible entry and detainer

Section 91 of the principal Act is amended by omitting from subsections (2) and (3) the words “colour of right”, and substituting in each case the words “claim of right”.

Murder

7 Further definition of murder

- (1) Section 168(2) of the principal Act is amended by repealing paragraph (f), and substituting the following paragraph:

“(f) section 128 (sexual violation):”

- (2) Section 168(2) of the principal Act is amended by repealing paragraphs (j) to (l), and substituting the following paragraphs:
- “(j) section 231 (burglary):
“(k) section 234 (robbery):
“(l) section 267 (arson)”

Endangering transport

8 Endangering transport

Section 203 of the principal Act is repealed.

Crimes against personal privacy

9 Interpretation

Section 216A of the principal Act is amended by repealing subsection (1), and substituting the following subsections:

- “(1) In this Part, unless the context otherwise requires,—
- “**intercept**, in relation to a private communication, includes hear, listen to, record, monitor, acquire, or receive the communication either—
- “(a) while it is taking place; or
- “(b) while it is in transit
- “**interception device**—
- “(a) means any electronic, mechanical, electromagnetic, optical, or electro-optical instrument, apparatus, equipment, or other device that is used or is capable of being used to intercept a private communication; but
- “(b) does not include—
- “(i) a hearing aid or similar device used to correct subnormal hearing of the user to no better than normal hearing; or
- “(ii) a device exempted from the provisions of this Part by the Governor-General by Order in Council, either generally or in such places or circumstances or subject to such other conditions as may be specified in the order
- “**private communication**—
- “(a) means a communication (whether in oral or written form or otherwise) made under circumstances that may reasonably be taken to indicate that any party to the

communication desires it to be confined to the parties to the communication; but

“(b) does not include such a communication occurring in circumstances in which any party ought reasonably to expect that the communication may be intercepted by some other person not having the express or implied consent of any party to do so.

“(2) Any Order in Council exempting a device from the provisions of this Part expires 2 years after it is made.”

10 Prohibition on use of listening devices

(1) The heading to section 216B of the principal Act is amended by omitting the words “listening devices”, and substituting the words “interception devices”.

(2) Section 216B(1) of the principal Act is amended by omitting the expression “(4)”, and substituting the expression “(5)”.

(3) Section 216B(1) and (3) of the principal Act is amended by omitting the words “a listening device”, and substituting in each case the words “an interception device”.

(4) Section 216B(2)(b)(ii) of the principal Act is repealed.

(5) Section 216B(3)(b) of the principal Act is amended by omitting the words “the listening device” in both places where they appear, and substituting in each case the words “the interception device”.

(6) Section 216B of the principal Act is amended by adding the following subsections:

“(5) Subsection (1) does not apply to the interception of private communications by any interception device operated by a person engaged in providing an Internet or other communication service to the public if-

“(a) the interception is carried out by an employee of the person providing that Internet or other communication service to the public in the course of that person’s duties; and

“(b) the interception is carried out for the purpose of maintaining that Internet or other communication service; and

- “(c) the interception is necessary for the purpose of maintaining the Internet or other communication service; and
 - “(d) the interception is only used for the purpose of maintaining the Internet or other communication service.
- “(6) Information obtained under subsection (5) must be destroyed immediately if it is no longer needed for the purpose of maintaining the Internet or other communication service.
- “(7) Any information held by any person that was obtained while assisting with the execution of an interception warrant must, upon expiry of the warrant, be—
- “(a) destroyed immediately; or
 - “(b) given to the agency executing the warrant.”

11 Prohibition on disclosure of private communication unlawfully intercepted

Section 216C(2)(b)(ii) of the principal Act is amended by omitting the words “a listening device”, and substituting the words “an interception device”.

12 Prohibition on dealing, etc, with listening devices

Section 216D of the principal Act is amended—

- (a) by omitting from the heading the words “listening devices”, and substituting the words “interception devices” ; and
- (b) by omitting from subsection (1)(d) the words “any listening device”, and substituting the words “any interception device” ; and
- (c) by omitting from subsection (2)(b) the words “a listening device”, and substituting the words “an interception device” ; and
- (d) by omitting from subsection (2)(b) the words “the listening device” in both places where they appear, and substituting in each case the words “the interception device”.

13 Forfeiture

Section 216E of the principal Act is amended by omitting the words “listening device” wherever they appear, and substituting in each case the words “interception devices”.

14 New section 216F inserted

The principal Act is amended by inserting, after section 216E, the following section:

“216F Unlawful disclosure

- “(1) An unlawful disclosure is—
- “(a) the intentional and unauthorised disclosure of the existence of an interception warrant to be exercised by a member of the police if the disclosure would, or is likely to, prejudice an investigation; or
 - “(b) the intentional and unauthorised disclosure of—
 - “(i) any information gained when undertaking maintenance of a communication service; or
 - “(ii) any information gained when assisting with the execution of an interception warrant other than to the agency executing the warrant.
- “(2) Despite anything in subsection (1)(b)(i), a person may disclose information to any member of the police if the information appears to relate to the commission of a crime that has caused or could cause serious harm to any person.
- “(3) Every person who makes an unlawful disclosure is liable to imprisonment for a term not exceeding 2 years.”

*Crimes against rights of property***15 Repeal of Part 10**

The principal Act is amended by repealing Part 10, and substituting the following Part:

“Part 10**“Crimes against rights of property***“Interpretation***“217 Interpretation**

In this Part, unless the context otherwise requires,—

“**dishonestly**, in relation to an act or omission, means done or omitted without a belief that there was express or implied consent to, or authority for, the act or omission from a person entitled to give such consent or authority

“**document** means a document, or part of a document, in any form; and includes, without limitation,—

- “(a) any paper or other material used for writing or printing that is marked with matter capable of being read; or
- “(b) any photograph, or any photographic negative, plate, slide, film, or microfilm, or any photostatic negative; or
- “(c) any disc, tape, wire, sound track, card, or other material or device in or on which information, sounds, or other data are recorded, stored (whether temporarily or permanently), or embodied so as to be capable, with or without the aid of some other equipment, of being reproduced; or
- “(d) any material by means of which information is supplied, whether directly or by means of any equipment, to any device used for recording or storing or processing information; or
- “(e) any material derived, whether directly or by means of any equipment, from information recorded or stored or processed by any device used for recording or storing or processing information

“**obtain**, in relation to any person, means obtain or retain for himself or herself or for any other person.

“Compare: 1961 No 43 ss 217, 218, 263

“Unlawful taking

“**218 Matters of ownership**

- “(1) For the purposes of this Part, a person is to be regarded as the owner of any property that is stolen if, at the time of the theft, that person has—
 - “(a) possession or control of the property; or
 - “(b) any interest in the property; or
 - “(c) the right to take possession or control of the property.
- “(2) An owner of any property may be guilty of theft against another owner of that property.
- “(3) All living creatures wild by nature, such as are not commonly found in a condition of natural liberty in New Zealand, are, if kept in a state of confinement, capable of being stolen, not

only while so confined, but after they have escaped from confinement.

- “(4) All other living creatures wild by nature are, if kept in a state of confinement, capable of being stolen so long as they remain in confinement, or are being pursued upon escaping from confinement.
- “(5) A wild living creature is in a state of confinement so long as it is in an enclosure designed to prevent escape, or otherwise secured, and to allow its owner to take possession of it when he or she pleases.
- “(6) Shellfish of all types are capable of being stolen when in oyster beds, marine farms, layings, and fisheries that are the property of any person and that are sufficiently marked out or shown as such property.

“Compare: 1961 No 43 ss 219, 225

“219 Theft or stealing

- “(1) Theft or stealing is the act of,—
- “(a) dishonestly and without claim of right, taking any property with intent to deprive any owner permanently of that property or of any interest in that property; or
 - “(b) dishonestly and without claim of right, using or dealing with any property with intent to deprive any owner permanently of that property or of any interest in that property after obtaining possession of, or control over, the property in whatever manner.
- “(2) An intent to deprive any owner permanently of property includes an intent to deal with property in such a manner that—
- “(a) the property cannot be returned to any owner in the same condition; or
 - “(b) any owner is likely to be permanently deprived of the property or of any interest in the property.
- “(3) In this section, taking does not include obtaining ownership or possession of, or control over, any property with the consent of the person from whom it is obtained, whether or not consent is obtained by deception.

“(4) For tangible property, theft is committed by a taking when the offender moves the property or causes it to be moved.

“Compare: 1961 No 43 s 220(1), (2), (5)

“**220 Theft by person in special relationship**

“(1) This section applies to any person who has received or is in possession of, or has control over, any property on terms or in circumstances that the person knows require the person—

“(a) to account to any other person for the property, or for any proceeds arising from the property; or

“(b) to deal with the property, or any proceeds arising from the property, in accordance with the requirements of any other person.

“(2) Every one to whom subsection (1) applies commits theft who intentionally fails to account to the other person as so required or intentionally deals with the property, or any proceeds of the property, otherwise than in accordance with those requirements.

“(3) This section applies whether or not the person was required to deliver over the identical property received or in the person’s possession or control.

“(4) For the purposes of subsection (1), it is a question of law whether the circumstances required any person to account or to act in accordance with any requirements.

“Compare: 1961 No 43 ss 222, 223, 224

“**221 Theft of animals**

Every one commits theft if he or she kills any animal that is the property of any other person with intent to steal the carcass, skin, or plumage, or any other part, of the animal.

“Compare: 1961 No 43 s 221

“**222 Theft by spouse**

A person may be convicted of theft of another person’s property even though those persons were married to each other at the time of the theft.

“Compare: 1961 No 43 s 226

“223 Punishment of theft

Every one who commits theft is liable as follows:

- “(a) in the case of any offence against section 220, to imprisonment for a term not exceeding 7 years; or
- “(b) if the value of the property stolen exceeds \$1,000, to imprisonment for a term not exceeding 7 years; or
- “(c) if the value of the property stolen exceeds \$500 but does not exceed \$1,000, to imprisonment for a term not exceeding 1 year; or
- “(d) if the value of the property stolen does not exceed \$500, to imprisonment for a term not exceeding 3 months.

“Compare: 1961 No 43 s 227

“224 Power of search for goods stolen or unlawfully obtained in transit

“(1) This section applies if—

“(a) any member of the police has reasonable grounds for believing that any property that has been stolen or unlawfully obtained is—

“(i) in the possession of any person; or

“(ii) in any container, package, or receptacle; or

“(iii) in or on any aircraft, hovercraft, or ship or ferry or other vessel, train, or vehicle; and

“(b) the person, container, package, receptacle, aircraft, hovercraft, or ship or ferry or other vessel, train, or vehicle is—

“(i) in any airport or in or on any port or harbour or waterway; or

“(ii) in or on any railway or railway line or railway station or in any depot, terminus, or yard; or

“(iii) in or on any other place used between trips by vehicles engaged in the carriage of goods for reward.

“(2) In the circumstances specified in subsection (1), the member of the police may, without warrant, search and detain for the purpose of searching the person, container, package, receptacle, aircraft, hovercraft, or ship or ferry or other vessel, train, or vehicle, and may take possession of any property described in subsection (1)(a) found during the search.

- “(3) If it is necessary for any member of the police to stop a vehicle for the purpose of exercising the power conferred by subsection (2) to search a person who is in the vehicle, sections 314A to 314D apply with any necessary modifications as if references in those sections to a statutory search power were references to the power to search a person under subsection (2).
- “(4) Subsection (3) does not limit the application of sections 314A to 314D in respect of the stopping of any vehicle for the purpose of exercising the power to search the vehicle under subsection (2).
- “(5) Any member of the police conducting a search under subsection (2) may use reasonable force, if necessary,—
- “(a) to break open any container, package, or receptacle:
 - “(b) to effect entry to any aircraft, hovercraft, or ship or ferry or other vessel, train, or vehicle.
- “Compare: 1961 No 43 s 227A

“225 Power to search vehicles for goods stolen or obtained by crimes involving dishonesty

- “(1) Any member of the police who has reasonable grounds for believing that any property that is stolen or obtained by a crime involving dishonesty is in or on any vehicle may, without warrant, search that vehicle for the purpose of locating that property.
- “(2) Any member of the police conducting a search under subsection (1) may use reasonable force, if necessary, to effect entry to the vehicle.
- “(3) During a search under subsection (1), any member of the police may seize any property that is—
- “(a) stolen or obtained by a crime involving dishonesty; and
 - “(b) found in or on the vehicle.
- “(4) Every member of the police must, before conducting a search under subsection (1),—
- “(a) identify himself or herself to any person in or on the vehicle; and
 - “(b) if the member is not in uniform and if so required, produce evidence that the member is a member of the police; and

“(c) tell any person in or on the vehicle that the search is being conducted under this section.

“Compare: 1961 No 43 s 227B

“226 Conversion of vehicle or other conveyance

“(1) Every one is liable to imprisonment for a term not exceeding 7 years who, dishonestly and without claim of right, but not so as to be guilty of theft, takes or uses for his or her own purposes or another person’s purposes—

“(a) any vehicle, ship, or aircraft; or

“(b) any part of any vehicle, ship, or aircraft; or

“(c) any horse.

“(2) Every one is liable to imprisonment for a term not exceeding 2 years who attempts to commit the offence in subsection (1) or who, dishonestly and without claim of right, interferes with, or gets into or upon, any vehicle, ship, or aircraft.

“Compare: 1961 No 43 s 228

“227 Being in possession of instrument for conversion

Every one is liable to imprisonment for a term not exceeding 1 year who, without lawful authority or excuse, has in his or her possession any instrument capable of being used for taking or converting any vehicle, ship, or aircraft with intent to use it for such a purpose.

“Compare: 1961 No 43 s 229

“228 Dishonestly taking or using document

Every one is liable to imprisonment for a term not exceeding 7 years who, with intent to obtain any property, service, pecuniary advantage, or valuable consideration,—

“(a) dishonestly and without claim of right, takes or obtains any document; or

“(b) dishonestly and without claim of right, uses or attempts to use any document.

“Compare: 1961 No 43 s 229A

“229 Criminal breach of trust

“(1) Every one is guilty of a criminal breach of trust who, as a trustee of any trust, dishonestly and contrary to the terms of

that trust, converts anything to any use not authorised by the trust.

“(2) Every trustee who commits a criminal breach of trust is liable to imprisonment for a term not exceeding 7 years.

“Compare: 1961 No 43 s 230

“**230 Taking, obtaining, or copying trade secrets**

“(1) Every one is liable to imprisonment for a term not exceeding 5 years who, with intent to obtain any pecuniary advantage or to cause loss to any other person,—

“(a) dishonestly and without claim of right, takes, obtains, or copies any document or any model or other depiction of any thing or process containing or embodying any trade secret, knowing that it contains or embodies a trade secret; or

“(b) dishonestly and without claim of right, takes or obtains any copy of any document or any model or other depiction of any thing or process containing or embodying any trade secret, knowing that it contains or embodies a trade secret.

“(2) For the purposes of this section, **trade secret** means any information that—

“(a) is, or has the potential to be, used industrially or commercially; and

“(b) is not generally available in industrial or commercial use; and

“(c) has economic value or potential economic value to the possessor of the information; and

“(d) is the subject of all reasonable efforts to preserve its secrecy.

“*Burglary*

“**231 Burglary**

“(1) Every one commits burglary and is liable to imprisonment for a term not exceeding 10 years who—

“(a) enters any building or ship, or part of a building or ship, without authority and with intent to commit a crime in the building or ship; or

- “(b) having entered any building or ship, remains in it without authority and with intent to commit a crime in the building or ship.
 - “(2) In this section and in section 232, **building** means any building or structure of any description, whether permanent or temporary; and includes a tent, caravan, or houseboat; and also includes any enclosed yard or any closed cave or closed tunnel.
 - “(3) For the purposes of this section and section 232,—
 - “(a) entrance into a building or ship is made as soon as any part of the body of the person making the entrance, or any part of any instrument used by that person, is within the building or ship; and
 - “(b) every one who gains entrance to a building or ship by any threat or artifice used for that purpose is to be treated as having entered without authority.
- “Compare: 1961 No 43 ss 240, 241, 242

“**232 Aggravated burglary**

- “(1) Every one is liable to imprisonment for a term not exceeding 14 years who,—
 - “(a) while committing burglary, has a weapon with him or her or uses any thing as a weapon; or
 - “(b) having committed burglary, has a weapon with him or her, or uses any thing as a weapon, while still in the building or ship.
 - “(2) Every one is liable to imprisonment for a term not exceeding 5 years who is armed with a weapon with intent to commit burglary.
- “Compare: 1961 No 43, ss 240A, 243

“**233 Being disguised or in possession of instrument for burglary**

- “(1) Every one is liable to imprisonment for a term not exceeding 3 years who, without lawful authority or excuse,—
 - “(a) has in his or her possession any instrument capable of being used for burglary with intent to use it for such a purpose; or

- “(b) has his or her face covered or is otherwise disguised with intent to commit any crime.
- “(2) If any person is convicted of being in possession of an instrument for burglary, the Court may, if it thinks fit, order the instrument to be forfeited to the Crown or disposed of as the Court directs at the expense of the convicted person, and may order the person to pay any reasonable cost incurred by the Commissioner of Police in retaining the instrument.
- “Compare: 1961 No 43 s 244; 1999 No 93 s 97(d)

“Robbery and blackmail

“234 Robbery

- “(1) Robbery is theft accompanied by violence or threats of violence, to any person or property, used to extort the property stolen or to prevent or overcome resistance to its being stolen.
- “(2) Every one who commits robbery is liable to imprisonment for a term not exceeding 10 years.
- “Compare: 1961 No 43 s 234

“235 Aggravated robbery

Every one is liable to imprisonment for a term not exceeding 14 years who—

- “(a) robs any person and, at the time of, or immediately before or immediately after, the robbery, causes grievous bodily harm to any person; or
- “(b) being together with any other person or persons, robs any person; or
- “(c) being armed with any offensive weapon or instrument, or any thing appearing to be such a weapon or instrument, robs any other person.

“Compare: 1961 No 43 s 235

“236 Assault with intent to rob

- “(1) Every one is liable to imprisonment for a term not exceeding 14 years who, with intent to rob any person,—
- “(a) causes grievous bodily harm to that person or any other person; or

- “(b) being armed with any offensive weapon or instrument, or any thing appearing to be such a weapon or instrument, assaults that person or any other person; or
 - “(c) being together with any other person or persons, assaults that person or any other person.
- “(2) Every one who assaults any person with intent to rob that person or any other person is liable to imprisonment for a term not exceeding 7 years.
- “Compare: 1961 No 43 ss 235(1), 237

“**237 Blackmail**

- “(1) Every one commits blackmail who threatens, expressly or by implication, to make any accusation against any person (whether living or dead), to disclose something about any person (whether living or dead), or to cause serious damage to property or endanger the safety of any person with intent—
- “(a) to cause the person to whom the threat is made to act in accordance with the will of the person making the threat; and
 - “(b) to obtain any benefit or to cause loss to any other person.
- “(2) Every one who acts in the manner described in subsection (1) is guilty of blackmail, even though that person believes that he or she is entitled to the benefit or to cause the loss, unless the making of the threat is, in the circumstances, a reasonable and proper means for effecting his or her purpose.
- “(3) In this section and in section 239, **benefit** means any benefit, pecuniary advantage, privilege, property, service, or valuable consideration.
- “Compare: 1961 No 43 s 238

“**238 Punishment of blackmail**

Every one who commits blackmail is liable to imprisonment for a term not exceeding 14 years.

“Compare: 1961 No 43 s 238(1)

“**239 Demanding with intent to steal, etc**

- “(1) Every one is liable to imprisonment for a term not exceeding 14 years who, without claim of right, by force or with any

threat, compels any person to execute, make, accept, endorse, alter, or destroy any document capable of conferring a pecuniary advantage with intent to obtain any benefit.

“(2) Every one is liable to imprisonment for a term not exceeding 7 years who, with menaces or by any threat, demands any property from any persons with intent to steal it.

“Compare: 1961 No 43 ss 236, 239

“Crimes involving deceit

“**240 Obtaining by deception or causing loss by deception**

“(1) Every one is guilty of obtaining by deception or causing loss by deception who, by any deception and without claim of right,—

“(a) obtains ownership or possession of, or control over, any property, or any privilege, service, pecuniary advantage, benefit, or valuable consideration, directly or indirectly; or

“(b) in incurring any debt or liability, obtains credit; or

“(c) induces or causes any other person to deliver over, execute, make, accept, endorse, destroy, or alter any document or thing capable of being used to derive a pecuniary advantage; or

“(d) causes loss to any other person.

“(2) In this section, **deception** means—

“(a) a false representation, whether oral, documentary, or by conduct, where the person making the representation intends to deceive any other person and—

“(i) knows that it is false in a material particular; or

“(ii) is reckless as to whether it is false in a material particular; or

“(b) an omission to disclose a material particular, with intent to deceive any person, in circumstances where there is a duty to disclose it; or

“(c) a fraudulent device, trick, or stratagem used with intent to deceive any person.

“Compare: 1961 No 43 ss 246, 247, 270

“241 Punishment of obtaining by deception or causing loss by deception

Every one who is guilty of obtaining by deception or causing loss by deception is liable as follows:

- “(a) if the loss caused or the value of what is obtained or sought to be obtained exceeds \$1,000, to imprisonment for a term not exceeding 7 years:
- “(b) if the loss caused or the value of what is obtained or sought to be obtained exceeds \$500 but does not exceed \$1,000, to imprisonment for a term not exceeding 1 year:
- “(c) if the loss caused or the value of what is obtained or sought to be obtained does not exceed \$500, to imprisonment for a term not exceeding 3 months.

“Compare: 1961 No 43 s 246(2)

“242 False statement by promoter, etc

“(1) Every one is liable to imprisonment for a term not exceeding 10 years who, in respect of any body, whether incorporated or unincorporated and whether formed or intended to be formed, makes or concurs in making or publishes any false statement, whether in any prospectus, account, or otherwise, with intent—

- “(a) to induce any person, whether ascertained or not, to subscribe to any security within the meaning of the Securities Act 1978; or
- “(b) to deceive or cause loss to any person, whether ascertained or not; or
- “(c) to induce any person, whether ascertained or not, to entrust or advance any property to any other person.

“(2) In this section, **false statement** means any statement in respect of which the person making or publishing the statement—

- “(a) knows the statement is false in a material particular; or
- “(b) is reckless as to the whether the statement is false in a material particular.

“Compare: 1961 No 43 s 250

*“Money laundering***“243 Money laundering**

- “(1) For the purposes of this section and sections 244 and 245,—
- “**conceal**, in relation to property, means to conceal or disguise the property; and includes, without limitation,—
- “(a) to convert the property from one form to another:
- “(b) to conceal or disguise the nature, source, location, disposition, or ownership of the property or of any interest in the property
- “**deal with**, in relation to property, means to deal with the property in any manner and by any means; and includes, without limitation,—
- “(a) to dispose of the property, whether by way of sale, purchase, gift, or otherwise:
- “(b) to transfer possession of the property:
- “(c) to bring the property into New Zealand:
- “(d) to remove the property from New Zealand
- “**interest**, in relation to property, means—
- “(a) a legal or equitable estate or interest in the property; or
- “(b) a right, power, or privilege in connection with the property
- “**proceeds**, in relation to a serious offence, means any property that is derived or realised, directly or indirectly, by any person from the commission of the offence
- “**property** means real or personal property of any description, whether situated in New Zealand or elsewhere and whether tangible or intangible; and includes an interest in any such real or personal property
- “**serious offence** means an offence punishable by imprisonment for a term of 5 years or more; and includes any act, wherever committed, that, if committed in New Zealand, would constitute an offence punishable by imprisonment for a term of 5 years or more.
- “(2) Subject to sections 244 and 245, every one is liable to imprisonment for a term not exceeding 7 years who, in respect of any property that is the proceeds of a serious offence, engages in a money laundering transaction, knowing or believing that all or part of the property is the proceeds of a serious offence, or

being reckless as to whether or not the property is the proceeds of a serious offence.

- “(3) Subject to sections 244 and 245, every one is liable to imprisonment for a term not exceeding 5 years who obtains or has in his or her possession any property (being property that is the proceeds of a serious offence committed by another person)—
- “(a) with intent to engage in a money laundering transaction in respect of that property; and
 - “(b) knowing or believing that all or part of the property is the proceeds of a serious offence, or being reckless as to whether or not the property is the proceeds of a serious offence.
- “(4) For the purposes of this section, a person engages in a money laundering transaction if, for the purpose of concealing any property or enabling another person to conceal any property, that person—
- “(a) deals with that property; or
 - “(b) assists any other person, whether directly or indirectly, to deal with that property.
- “(5) In any prosecution for an offence against subsection (2) or subsection (3),—
- “(a) it is not necessary for the prosecution to prove that the accused knew or believed that the property was the proceeds of a particular serious offence or a particular class of serious offence:
 - “(b) it is no defence that the accused believed any property to be the proceeds of a particular serious offence when in fact the property was the proceeds of another serious offence.
- “(6) Nothing in this section or in sections 244 or 245 limits or restricts the operation of any other provision of this Act or any other enactment.

“Compare: 1961 No 43 ss 233, 257A(1)-(5)

“**244 Defence of enforcement of enactment**

It is a defence to a charge under section 243 if the person charged proves that the act to which the charge relates was done by that person, in good faith, for the purpose of, or in connection with,—

- “(a) the enforcement or intended enforcement of this section, any other provision of this Act, or any other enactment relating to a serious offence; or
- “(b) the enforcement or intended enforcement of the Proceeds of Crime Act 1991; or
- “(c) the enforcement or intended enforcement of the Financial Transactions Reporting Act 1996.

“Compare: 1961 No 43 s 257A(6)

“245 Section 243 not to apply to certain acts committed outside New Zealand

- “(1) Subject to subsection (2), section 243 does not apply if—
- “(a) any property is alleged to be the proceeds of a serious offence; and
 - “(b) the act that is alleged to constitute that serious offence was committed outside New Zealand; and
 - “(c) the act was not, at the time of its commission, an offence under the law of the place where the act was done.
- “(2) If a person is charged with an offence under this section and the act that is alleged to constitute the serious offence resulting in the proceeds was committed outside New Zealand, it is to be presumed, unless the person charged puts the matter at issue, that the act was an offence under the law of the place where the act was done.

“Compare: 1961 No 43 s 257A(6A), (6B)

“Receiving

“246 Receiving

- “(1) Every one is guilty of receiving who receives any property stolen or obtained by any other crime, knowing that property to have been stolen or so obtained, or being reckless as to whether or not the property had been stolen or so obtained.
- “(2) For the purposes of this section, property that was obtained by any act committed outside New Zealand that, if it had been committed in New Zealand, would have constituted a crime is, subject to subsection (5), to be regarded as having been obtained by a crime.

- “(3) The act of receiving any property stolen or obtained by any other crime is complete as soon as the offender has, either exclusively or jointly with the thief or any other person, possession of, or control over, the property or helps in concealing or disposing of the property.
- “(4) If—
- “(a) any property stolen or obtained by any other crime has been returned to the owner; or
 - “(b) legal title to any such property has been acquired by any person—
a subsequent receiving of it is not an offence, even though the receiver may know that the property had previously been stolen or obtained by any other crime.
- “(5) If a person is charged with an offence under this section and the property was obtained by an act committed outside New Zealand, it is to be presumed, unless the person charged puts the matter at issue, that the doing of the act by which the property was obtained was an offence under the law of the place where the act was done.
- “Compare: 1961 No 43 ss 258(1), 260, 261

“**247 Punishment of receiving**

Every person who is guilty of receiving is liable as follows:

- “(a) if the value of the property received exceeds \$1,000, to imprisonment for a term not exceeding 7 years:
- “(b) if the value of the property received exceeds \$500 but does not exceed the sum of \$1,000, to imprisonment for a term not exceeding 1 year:
- “(c) if the value of the property received does not exceed \$500, to imprisonment for a term not exceeding 3 months.

“Compare: 1961 No 43 s 258(1)

“Crimes involving computers

“**248 Interpretation**

For the purposes of this section and sections 249 and 250,—

“**access**, in relation to any computer system, means instruct, communicate with, store data in, receive data from, or otherwise make use of any of the resources of the computer system

“**computer system** —

“(a) means—

“(i) a computer; or

“(ii) 2 or more interconnected computers; or

“(iii) any communication links between computers or to remote terminals or another device; or

“(iv) 2 or more interconnected computers combined with any communication links between computers or to remote terminals or any other device; and

“(b) includes any part of the items described in paragraph (a) and all related input, output, processing, storage, software, or communication facilities, and stored data.

“**249 Accessing computer system for dishonest purpose**

“(1) Every one is liable to imprisonment for a term not exceeding 7 years who, directly or indirectly, accesses any computer system and thereby, dishonestly or by deception, and without claim of right,—

“(a) obtains any property, privilege, service, pecuniary advantage, benefit, or valuable consideration; or

“(b) causes loss to any other person.

“(2) Every one is liable to imprisonment for a term not exceeding 5 years who, directly or indirectly, accesses any computer system with intent, dishonestly or by deception, and without claim of right,—

“(a) to obtain any property, privilege, service, pecuniary advantage, benefit, or valuable consideration; or

“(b) to cause loss to any other person.

“(3) In this section, **deception** has the same meaning as in section 240(2).

“**250 Damaging or interfering with computer system**

“(1) Every one is liable to imprisonment for a term not exceeding 10 years who intentionally or recklessly destroys, damages,

or alters any computer system if he or she knows or ought to know that danger to life is likely to result.

- “(2) Every one is liable to imprisonment for a term not exceeding 7 years who intentionally or recklessly, and without authorisation, knowing that he or she is not authorised, or being reckless as to whether or not he or she is authorised,—
- “(a) damages, deletes, modifies, or otherwise interferes with or impairs any data or software in any computer system; or
 - “(b) causes any data or software in any computer system to be damaged, deleted, modified, or otherwise interfered with or impaired; or
 - “(c) causes any computer system to—
 - “(i) fail; or
 - “(ii) deny service to any authorised users.

“251 Making, selling, or distributing or possessing software for committing crime

- “(1) Every one is liable to imprisonment for a term not exceeding 2 years who invites any other person to acquire from him or her, or offers or exposes for sale or supply to any other person, or agrees to sell or supply or sells or supplies to any other person, or has in his or her possession for the purpose of sale or supply to any other person, any software or other information that would enable another person to access a computer system without authorisation—
- “(a) the sole or principal use of which he or she knows to be the commission of a crime; or
 - “(b) that he or she promotes as being useful for the commission of a crime (whether or not he or she also promotes it as being useful for any other purpose), knowing or being reckless as to whether it will be used for the commission of a crime.
- “(2) Every one is liable to imprisonment for a term not exceeding 2 years who—
- “(a) has in his or her possession any software or other information that would enable him or her to access a computer system without authorisation; and

“(b) intends to use that software or other information to commit a crime.

“Compare: 1961 No 43 ss 216D(1), 229, 244

“252 Accessing computer system without authorisation

“(1) Every one is liable to imprisonment for a term not exceeding 2 years who intentionally accesses, directly or indirectly, any computer system without authorisation, knowing that he or she is not authorised to access that computer system, or being reckless as to whether or not he or she is authorised to access that computer system.

“(2) To avoid doubt, subsection (1) does not apply if a person who is authorised to access a computer system accesses that computer system for a purpose other than the one for which that person was given access.

“(3) To avoid doubt, subsection (1) does not apply if access to a computer system is gained by a law enforcement agency—

“(a) under the execution of an interception warrant or search warrant; or

“(b) under the authority of any Act or rule of the common law.

“253 Qualified exemption to access without authorisation offence for New Zealand Security Intelligence Service

Section 252 does not apply if—

“(a) the person accessing a computer system is—

“(i) the person specified in an interception warrant issued under the New Zealand Security Intelligence Service Act 1969; or

“(ii) a person, or member of a class of persons, requested to give any assistance that is specified in that warrant; and

“(b) the person accessing a computer system is doing so for the purpose of intercepting or seizing any communication, document, or thing of the kind specified in that warrant.

“254 Qualified exemption to access without authorisation offence for Government Communications Security Bureau

Section 252 does not apply if the person that accesses a computer system—

- “(a) is authorised to access that computer system under the Government Communications Security Bureau Act 2003; and
- “(b) accesses that computer system in accordance with that authorisation.

“Forgery and counterfeiting

“255 Interpretation

For the purposes of this section and sections 256 and 263,—

“**bank note** means any negotiable instrument used or intended for use as currency and issued by the Reserve Bank of New Zealand, or by any bank in any country other than New Zealand, or by the government of any such country, or by any other authority authorised by law to issue notes

“**false document means a document—**

- “(a) of which the whole or any material part purports to be made by any person who did not make it, or by a fictitious person; or
- “(b) of which the whole or any material part purports to be made by or on behalf of any person who did not authorise its making, or on behalf of a fictitious person; or
- “(c) of which the whole or any material part has been altered, whether by addition, insertion, deletion, obliteration, erasure, removal, or otherwise, and that purports to have been altered by or on behalf of a person who did not alter it or authorise its alteration, or by or on behalf of a fictitious person; or
- “(d) that is, in whole or in part, a reproduction of any other document, and that purports to have been made by or on behalf of a person who did not make it or authorise its making, or by or on behalf of a fictitious person; or
- “(e) that is made in the name of a person, either by that person or by that person’s authority, with the intention that

it should pass as being made by some other person who did not make it, or by a fictitious person.

“Compare: 1961 No 43 s 263

“256 Forgery

“(1) Every one is liable to imprisonment for a term not exceeding 10 years who makes a false document with the intention of using it to obtain any property, privilege, service, pecuniary advantage, benefit, or valuable consideration.

“(2) Every one is liable to imprisonment for a term not exceeding 3 years who makes a false document, knowing it to be false, with the intent that it in any way be used or acted upon, whether in New Zealand or elsewhere, as genuine.

“(3) Forgery is complete as soon as the document is made with the intent described in subsection (1) or with the knowledge and intent described in subsection (2).

“(4) Forgery is complete even though the false document may be incomplete, or may not purport to be such a document as would be binding or sufficient in law, if it is so made and is such as to indicate that it was intended to be acted upon as genuine.

“Compare: 1961 No 43 ss 264. 265

“257 Using forged documents

“(1) Every one is liable to imprisonment for a term not exceeding 10 years who, knowing a document to be forged,—

“(a) uses the document to obtain any property, privilege, service, pecuniary advantage, benefit, or valuable consideration; or

“(b) uses, deals with, or acts upon the document as if it were genuine; or

“(c) causes any other person to use, deal with, or act upon it as if it were genuine.

“(2) For the purposes of this section, a document made or altered outside New Zealand in a manner that would have amounted to forgery if the making or alteration had been done in New Zealand is to be regarded as a forged document.

“Compare: 1961 No 43 s 266

“258 Altering, concealing, destroying, or reproducing documents with intent to deceive

- “(1) Every one is liable to imprisonment for a term not exceeding 10 years who, with intent to obtain by deception any property, privilege, service, pecuniary advantage, benefit, or valuable consideration, or to cause loss to any other person,—
- “(a) alters, conceals, or destroys any document, or causes any document to be altered, concealed, or destroyed; or
 - “(b) makes a document or causes a document to be made that is, in whole or in part, a reproduction of any other document.
- “(2) An offence against subsection (1) is complete as soon as the alteration or document is made with the intent referred to in that subsection, although the offender may not have intended that any particular person should—
- “(a) use or act upon the document altered or made; or
 - “(b) act on the basis of the absence of the document concealed or destroyed; or
 - “(c) be induced to do or refrain from doing anything.
- “Compare: 1961 No 43 ss 231, 256, 266A

“259 Using altered or reproduced document with intent to deceive

- “(1) Every one is liable to imprisonment for a term not exceeding 10 years who, knowing any document to have been made or altered in the manner and with the intent referred to in section 258, with intent to obtain by deception any property, privilege, service, pecuniary advantage, benefit, or valuable consideration, or to cause loss to any other person,—
- “(a) uses, or deals with, or acts upon, the document; or
 - “(b) causes any person to use or deal with, or act upon, the document.
- “(2) For the purposes of this section, it does not matter that the document was altered or made outside New Zealand.
- “Compare: 1961 No 43 s 266B

“260 False accounting

Every one is liable to imprisonment for a term not exceeding 10 years who, with intent to obtain by deception any prop-

erty, privilege, service, pecuniary advantage, benefit, or valuable consideration, or to deceive or cause loss to any other person,—

- “(a) makes or causes to be made, or concurs in the making of, any false entry in any book or account or other document required or used for accounting purposes; or
- “(b) omits or causes to be on-fitted, or concurs in the omission of, any material particular from any such book or account or other document; or
- “(c) makes any transfer of any interest in a stock, debenture, or debt in the name of any person other than the owner of that interest.

“Compare: 1961 No 43 ss 251-254

“261 Counterfeiting public seals

Every one is liable to imprisonment for a term not exceeding 10 years who—

- “(a) unlawfully makes or counterfeits—
 - “(i) any public seal in use at any time in New Zealand or any other country; or
 - “(ii) any seal or stamp used in New Zealand or any other country by any court, local authority, public body, or public officer; or
 - “(iii) the impression of any such seal or stamp; or
- “(b) uses any such seal, stamp, or impression, knowing it to be counterfeit.

“Compare: 1961 No 43 s 267

“262 Counterfeiting corporate seals

Every one is liable to imprisonment for a term not exceeding 5 years who—

- “(a) unlawfully makes or counterfeits—
 - “(i) any seal or stamp used in New Zealand or any other country by any company or other corporate body (not being a body to which section 261 applies), or by any other person; or
 - “(ii) the impression of any such seal or stamp; or

“(b) uses any such seal, stamp, or impression, knowing it to be counterfeit.

“Compare: 1961 No 43 s 268

“263 Possessing forged bank notes

Every one is liable to imprisonment for a term not exceeding 7 years who, without lawful authority or excuse (the proof of the lawful authority or excuse lying on him or her), purchases or receives from any person, or has in his or her possession or under his or her control, any forged bank note, whether complete or not, knowing it to be forged.

“Compare: 1961 No 43 s 271

“264 Paper or implements for forgery

Every one is liable to imprisonment for a term not exceeding 10 years who, without lawful authority or excuse, has in his or her possession or under his or her control anything capable of being used to forge any document with intent to use it for such a purpose.

“Compare: 1961 No 43 s 274

“265 Imitating authorised or customary marks

“(1) Every one is liable to imprisonment for a term not exceeding 5 years who dishonestly counterfeits or imitates any mark, word, or description that is—

“(a) impressed or otherwise made, or written upon, or affixed to, any chattel, or upon or to any thing containing or connected with any chattel; and

“(b) a mark, word, or description that is by recognised practice understood to denote that the thing upon or to which it is impressed, made, written, or affixed has been examined and certified to be of a particular quality by any particular officer or other person.

“(2) Subsection (1) applies whether the officer or other person referred to in subsection (1)(b) is or is not expressly authorised by law to so certify.

“Compare: 1961 No 43 ss 280, 281

*“Coinage***“266 Offences involving coinage**

“(1) For the purposes of this section,—

“**counterfeit coin** includes any coin that has been altered in any manner so as to resemble any other coin

“**current coin** means coin of any substance lawfully current in New Zealand or in any other country.

“(2) For the purposes of this section,—

“(a) a thing is treated as being in the possession of any person if that person has it in his or her personal custody or possession, or if that person knowingly has it in the actual custody or possession of any other person, or in some place (whether or not that person occupies the place), for the use or benefit of himself or herself or any other person:

“(b) a coin is deemed to be made or counterfeited even though the making or counterfeiting has not been finished or perfected.

“(3) Every one is liable to imprisonment for a term not exceeding 10 years who—

“(a) makes or counterfeits any coin resembling any current coin with the intention that it be acted upon as genuine; or

“(b) without lawful authority or excuse, has in his or her possession or under his or her control any thing intended to be used to make or counterfeit any coin resembling any current coin, with intent to use it for such a purpose.

“(4) Every one is liable to imprisonment for a term not exceeding 7 years who, without lawful authority or excuse,—

“(a) buys, sells, or receives, or offers to buy, sell, or receive, any counterfeit coin resembling any current coin at or for a lower rate or value than the counterfeit coin purports to be; or

“(b) imports or receives into New Zealand any counterfeit coin resembling any current coin, knowing it to be counterfeit; or

“(c) exports from New Zealand, or puts on board any ship or aircraft for the purpose of being exported, any coun-

terfeit coin resembling any current coin, knowing it to be counterfeit.

- “(5) Every one is liable to imprisonment for a term not exceeding 3 years who—
- “(a) passes or attempts to pass any counterfeit coin knowing it to be counterfeit; or
 - “(b) passes or attempts to pass as current coin any coin that is not current coin or any piece of metal or other substance, knowing that it is not current coin.
- “(6) Every one is liable to imprisonment for a term not exceeding 1 year who has in his or her possession or under his or her control any counterfeit coin, knowing it to be counterfeit and intending to pass it as genuine.

“Compare: 1961 No 43 ss 282-286, 289-292

“Arson, damage, and waste

“267 Arson

- “(1) Every one commits arson and is liable to imprisonment for a term not exceeding 14 years who—
- “(a) intentionally or recklessly damages by fire or by means of any explosive any property if he or she knows or ought to know that danger to life is likely to ensue; or
 - “(b) intentionally or recklessly, and without claim of right, damages by fire or by means of any explosive any immovable property, or any vehicle, ship, or aircraft, in which that person has no interest; or
 - “(c) intentionally damages by fire or by means of any explosive any immovable property, or any vehicle, ship or aircraft, with intent to obtain any benefit, or to cause loss to any other person.
- “(2) Every one commits arson and is liable to imprisonment for a term not exceeding 7 years who—
- “(a) intentionally or recklessly, and without claim of right, damages by fire or by means of any explosive any property in which that person has no interest (other than property referred to in subsection (1)); or
 - “(b) intentionally or recklessly damages by fire or by means of any explosive any property (other than property re-

ferred to in subsection (1)) with intent to obtain any benefit, or with intent to cause loss to any other person.

“(3) Every one is liable to imprisonment for a term not exceeding 5 years who intentionally damages by fire or by means of any explosive any property with reckless disregard for the safety of any other property.

“(4) In this section and in section 269, **benefit** means any benefit, pecuniary advantage, privilege, property, service, or valuable consideration.

“Compare: 1961 No 43 ss 294, 296

“**268 Attempted arson**

Every one is liable to imprisonment for a term not exceeding 10 years who attempts to commit arson in respect of any immovable property or any vehicle, ship, or aircraft.

“Compare: 1961 No 43 s 295

“**269 Intentional damage**

“(1) Every one is liable to imprisonment for a term not exceeding 10 years who intentionally or recklessly destroys or damages any property if he or she knows or ought to know that danger to life is likely to result.

“(2) Every one is liable to imprisonment for a term not exceeding 7 years who—

“(a) intentionally or recklessly, and without claim of right, destroys or damages any property in which that person has no interest; or

“(b) intentionally or recklessly, and without claim of right, destroys or damages any property with intent to obtain any benefit, or with intent to cause loss to any other person.

“(3) Every one is liable to imprisonment for a term not exceeding 7 years who intentionally destroys or damages any property with reckless disregard for the safety of any other property.

“Compare: 1961 No 43 s 298

“270 Endangering transport

“(1) Every one is liable to imprisonment for a term not exceeding 14 years who, with intent to cause danger to persons or property or with reckless disregard for the safety of persons or property,—

“(a) interferes with any transport facility; or

“(b) does anything to any transport facility that is likely to cause danger to persons or property.

“(2) For the purposes of this section, **transport facility** means any vehicle, ship, or aircraft, and any property used in connection with the transportation of persons or goods; and includes equipment of any kind used in navigation or for the guidance of any vehicle, ship, or aircraft.

“Compare: 1961 No 43 ss 203, 300-303

“271 Waste or diversion of electricity, gas, or water

Every one is liable to imprisonment for a term not exceeding 5 years who, without claim of right and with intent to cause loss or harm to any person, wastes or diverts any electricity, gas, or water, or causes it to be wasted or diverted.

“Compare: 1961 No 43 s 299

“272 Providing explosive to commit crime

Every one is liable to imprisonment for a term not exceeding 2 years who knowingly has in his or her possession or makes any explosive substance, or any dangerous engine, instrument, or thing, with intent to use or enable another person to use the substance, dangerous engine, instrument, or thing, to commit a crime.

“Compare: 1961 No 43 s 305”

*Other amendments to principal Act***16 Threatening to destroy property**

Section 307(2) of the principal Act is amended by omitting the words “colour of right”, and substituting the words “claim of right”.

17 Heading to Part 11A amended

The heading to Part 11A of the principal Act is amended by omitting the words “listening devices”, and substituting the words “interception devices”.

18 Interpretation

- (1) Section 312A(1) of the principal Act is amended by repealing the definitions of **intercept** and **private communication**, and substituting, in their appropriate alphabetical order, the following definitions:

“**intercept**, in relation to a private communication, includes hear, listen to, record, monitor, acquire, or receive the communication either—

“(a) while it is taking place; or

“(b) while it is in transit

“**private communication**—

“(a) means a communication (whether in oral or written form or otherwise) made under circumstances that may reasonably be taken to indicate that any party to the communication desires it to be confined to the parties to the communication; but

“(b) does not include such a communication occurring in circumstances in which any party ought reasonably to expect that the communication may be intercepted by some other person not having the express or implied consent of any party to do so.”

- (2) Section 312A(1) of the principal Act is amended by repealing the definition of **listening device**.

- (3) Section 312A(1) of the principal Act is amended by inserting, in their appropriate alphabetical order, the following definitions:

“**facility** means an electronic address, phone number, or similar facility that enables private communications to—

“(a) take place between individuals; or

“(b) be sent to or from an identified individual

“**interception device**—

“(a) means any electronic, mechanical, or electromagnetic instrument, apparatus, equipment, or other device that is used or is capable of being used to intercept a private communication; but

- “(b) does not include a hearing aid or similar device used to correct subnormal hearing of the user to no better than normal hearing”
- (4) Section 312A(1) of the principal Act is amended by repealing paragraphs (d) to (f) of the definition of **specified offence**, and substituting the following paragraphs:
- “(d) an offence punishable under section 223(b) (theft of an object exceeding \$1,000 in value):
- “(e) an offence against section 243 (which relates to money laundering):
- “(f) an offence punishable under section 247 (which relates to receiving property dishonestly obtained).”

19 Application by police for warrant to intercept private communications

- (1) Section 312B(1) of the principal Act is amended by omitting the words “a listening device”, and substituting the words “an interception device”.
- (2) Section 312B(2) of the principal Act is amended by repealing paragraph (c), and substituting the following paragraph:
- “(c) the name and address, if known, of the suspect whose private communications there are reasonable grounds for believing will assist the police investigation of the case, or, if the name and address of the suspect are not known, a general description of the premises, place, thing, or type of facility in respect of which it is proposed to intercept private communications, being premises or a place, thing, or type of facility believed to be used for any purpose by any member of the organised criminal enterprise; and.”

20 Matters on which Judge must be satisfied in respect of applications

Section 312C(1)(b) of the principal Act is amended by omitting the words “a listening device”, and substituting the words “an interception device”.

21 Application by police for warrant to intercept private communications in relation to serious violent offences

- (1) Section 312CA of the principal Act is amended by omitting the words “a listening device” wherever they appear, and substituting in each case the words “an interception device”.
- (2) Section 312CA(2)(c) is amended by repealing subparagraph (ii), and substituting the following subparagraph:
“(ii) if the name and address of the suspect are not known, a general description of the premises, place, thing, or type of facility in respect of which it is proposed to intercept private communications, being premises or a place, thing, or type of facility believed to be used for any purpose by any person—
“(A) whom it is believed has committed or is committing or is about to commit a serious violent offence; or
“(B) whom it is believed was involved or is involved or will be involved in the commission of a serious violent offence; and.”

22 Matters on which Judge must be satisfied in respect of applications relating to serious violent offences

Section 312CB of the principal Act is amended by omitting the words “a listening device” wherever they appear, and substituting in each case the words “an interception device”.

23 Contents and term of warrant

- (1) Section 312D of the principal Act is amended by omitting the words “a listening device” in both places where they appear, and substituting in each case the words “an interception device”.
- (2) Section 312D(1) of the principal Act is amended by repealing paragraph (b), and substituting the following paragraph:
“(b) state,—
“(i) in the case of a warrant granted under section 312C, the name and address of the suspect, if known, whose private communications may be intercepted or, if the suspect’s name and address are not known, the premises, place, thing, or type of facility believed to be used for any purpose by any member of the organised criminal enterprise; or

- “(ii) in the case of a warrant granted under section 312CB, the name and address of the suspect, if known, whose private communications may be intercepted or, if the suspect’s name and address are not known, the premises, place, thing, or type of facility in respect of which private communications may be intercepted, being premises or a place, thing, or type of facility believed to be used for any purpose by any person—
- “(A) whom it is believed has committed or is committing or is about to commit a serious violent offence; or
- “(B) whom it is believed was involved or is involved or will be involved in the commission of a serious violent offence; and.”

24 Effect of warrant

Section 312E of the principal Act is amended by omitting the words “a listening device”, and substituting the words “an interception device”.

25 Emergency permits

Section 312G of the principal Act is amended by inserting, after the words “a particular place”, the words “or a particular thing or a particular type of facility”.

26 Destruction of irrelevant records made by use of listening device

The heading to section 312I of the principal Act is amended by omitting the words “listening device”, and substituting the words “interception device”.

27 Destruction of relevant records made by use of listening device

The heading to section 312J of the principal Act is amended by omitting the words “listening device”, and substituting the words “interception device”.

- 28 Notice to be given of intention to produce evidence of private communication**
Section 312L(b) of the principal Act is amended by inserting, after the word “place”, the words “(if known)”.
- 29 Inadmissibility of evidence of private communications unlawfully intercepted**
Section 312M of the principal Act is amended by omitting the words “a listening device” wherever they appear, and substituting in each case the words “an interception device”.
- 30 Report to be made to Judge on use of warrant or permit**
Section 312P of the principal Act is amended by omitting the words “listening device” wherever they appear, and substituting in each case the words “interception device”.
- 31 Commissioner of Police to give information to Parliament**
- (1) Section 312Q(f) of the principal Act is amended by omitting the words “a listening device” in both places where they appear, and substituting in each case the words “an interception device”.
- (2) Section 312Q of the principal Act is amended by adding the following paragraphs:
- “(k) in relation to the emergency powers granted under section 216B(3),—
- “(i) whether or not the powers have been used;
- “(ii) the number of times the powers have been used;
- “(iii) the circumstances in which the powers were used;
- “(iv) the results of using the powers; and
- “(l) the number of warrants that did not result in any charges being laid within 90 days of the date on which the warrant expired.”
- 32 Money laundering**
Section 344AA of the principal Act is amended by omitting from subsections (1) and (3) the expression “section 257A”, and substituting in each case the expression “section 243”.

Part 2 Other matters

Consequential repeals and amendments

33 Consequential repeals

The following enactments are consequentially repealed:

- (a) Crimes Amendment Act 1985:
- (b) sections 2 to 4 of the Crimes Amendment Act 1986:
- (c) section 6 of the Crimes Amendment Act (No 2) 1986:
- (d) sections 4 and 5 of the Crimes Amendment Act 1995:
- (e) so much of Schedule 1 of the Crimes Amendment Act (No 2) 1995 as relates to section 258 of the principal Act:
- (f) sections 5 and 6 of the Crimes Amendment Act (No 2) 1997.

34 Consequential amendments

The enactments specified in Schedule 1 are consequentially amended in the manner indicated in that schedule.

Interception devices

35 Amendments to enactments relating to interception devices

The enactments specified in Schedule 2 are amended in the manner indicated in that schedule.

Schedule 1 Enactments amended

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Armed Forces Discipline Act 1971 (1971 No 53)

Repeal the definition of **colour of right** in section 2(1) and substitute: “**claim of right** has the same meaning as it has in section 2(1) of the Crimes Act 1961.”

Omit from the definition of **stealing** in section 2(1) the expression “section 220” and substitute the expression “section 219”.

Omit from section 58(2) the expression “sections 260 and 261 and subsections (2) and (3) of section 258” and substitute the expression “section 246(2) to (5)”.

Omit from section 60 the words “colour of right” in both places where they appear and substitute in each case the words “claim of right”.

Crimes (Internationally Protected Persons, United Nations and Associated Personnel, and Hostages) Act 1980 (1980 No 44)

Omit from Schedule 2 all the items under the headings “Section of Crimes Act 1961” and “Subject-matter” and substitute:

267	Arson
268	Attempted arson
269	Intentional damage
270	Endangering transport

Criminal Investigations (Blood Samples) Act 1995 (1995 No 55)

Omit from Part A of the Schedule the items relating to robbery, aggravated robbery, assault with intent to rob, and aggravated burglary and substitute:

Aggravated burglary	Section 232
Robbery	Section 234
Aggravated robbery	Section 235
Assault with intent to rob	Section 236

Omit the items in Part B of the Schedule and substitute:

Burglary	Section 231
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District Courts Act 1947 (1947 No 16)

Omit from Part 1 of Schedule 1A the heading and all the items under the heading relating to Part 10 of the Crimes Act 1961 and substitute:

“Part 10**“Crimes against rights of property”**

232	Aggravated burglary
235(1)(b)	Aggravated robbery
236(1)(c)	Assault with intent to rob
239(1)	Demanding with intent to steal
267	Arson
269	Intentional damage

Omit from Part 2 of Schedule 1A the heading and the items under the heading relating to Part 10 of the Crimes Act 1961 and substitute the following heading and items:

“Part 10**“Crimes against rights of property”**

235(1)(a) and (c)	Aggravated robbery
236(1)(a) and (b)	Assault with intent to rob

Friendly Societies and Credit Unions Act 1982 (1982 No 118)

Omit from section 155(1) the expression “section 230” and substitute the expression “section 229”.

Repeal section 155(2).

Financial Transactions Reporting Act 1996 (1996 No 9)

Omit from the definition of **money laundering offence** in section 2(1) the expression “section 257A” and substitute the expression “section 243”.

Omit from section 18(c) the expression “section 257A(4)” and substitute the expression “section 243(4)”.

Omit from section 18 the expression “section 257A(6)(a)” wherever it appears and substitute in each case the expression “section 244(a)”.

Omit from sections 18, 21, 28, and 43 the expression “section 257A” wherever it appears and substitute in each case the expression “section 243”.

Income Tax Act 1994 (1994 No 164)

Insert in section OB 1 after the definition of **claim** the following definition:

“**claim of right**, in relation to any act, means a belief that the act is lawful, although that belief may be based on ignorance or mistake of fact or of any matter of law other than the enactment against which the offence is alleged to have been committed.”

Omit from section CD 6(1) the words “colour of right” and substitute the words “claim of right”.

Misuse of Drugs Act 1975 (1975 No 116)

Repeal paragraph (c) of section 11(1) and substitute the following paragraph:

“(c) receives a controlled drug obtained by any crime, or by any act, wherever committed, that, if committed in New Zealand, would constitute a crime, knowing that the controlled drug had been dishonestly obtained or being reckless as to whether or not the controlled drug had been stolen or so obtained.”

Omit from section 11(2) the expression “Subsections (2) and (3) of section 258” and substitute the expression “Section 246(2) to (5)”.

Omit from section 11(3) the expression “sections 220, 222, 225, 226, 245, 260, and 261” and substitute the expression “sections 219, 220, 222, 240, and 246(2) to (5)”.

Omit from the definition of **serious offence** in section 12B(1) the expression “section 257A” and substitute the expression “section 243”.

Repeal section 12B(2) and (3) and substitute:

“(2) Subject to subsections (6) to (8), every person commits an offence and is liable on conviction on indictment to imprisonment for a term not exceeding 7 years who, in respect of any

property that is the proceeds of a specified drug offence, engages in a money laundering transaction, knowing or believing that all or part of the property is the proceeds of a specified drug offence, or being reckless as to whether or not the property is the proceeds of a specified drug offence.

- “(3) Subject to subsections (6) to (8), every person commits an offence and is liable on conviction on indictment to imprisonment for a term not exceeding 5 years who obtains or has in his or her possession any property (which property is the proceeds of a specified drug offence committed by another person)—
- “(a) with intent to engage in a money laundering transaction concerning that property; and
 - “(b) knowing or believing that all or part of the property is the proceeds of a specified drug offence, or being reckless as to whether or not the property is the proceeds of a specified drug offence.”

Motor Vehicle Dealers Act 1975 (1975 No 127)

Omit from the definition of **crime involving dishonesty** in section 2(1) the expression “sections 217 to 292” and substitute the expression “sections 217 to 266”.

Mutual Assistance in Criminal Matters Act 1992 (1992 No 86)

Omit from Part 1 of Schedule 2 the items relating to sections 294, 295, 296, 297, 298, and 300 of the Crimes Act 1961 and substitute:

Section 267	Arson
Section 268	Attempted arson
Section 269	Intentional damage
Section 270	Endangering transport

Pawnbrokers Act 1908 (1908 No 141)

Omit from section 36 the words “colour of right” in both places where they appear and substitute in each case the words “claim of right”.

Private Investigators and Security Guards Act 1974 (1974 No 48)

Omit from the definition of **crime involving dishonesty** in section 2(1) the expression “sections 217 to 292” and substitute the expression “sections 217 to 266”.

Real Estate Agents Act 1976 (1976 No 9)

Omit from the definition of **crime involving dishonesty** in section 2(1) the expression “sections 217 to 292” and substitute the expression “sections 217 to 266”.

Secondhand Dealers Act 1963 (1963 No 10)

Repeal paragraph (a) of section 17(1) and substitute:

“(a) if the licensee is convicted of an offence under this Act or an offence under Part 10 of the Crimes Act 1961; other than an offence under sections 267 to 272 of that Act; or”

Summary Offences Act 1981 (1981 No 113)

Repeal the definition of **colour of right** in section 2(1) and substitute the following definition:

“**claim of right** has the same meaning as it has in section 2(1) of the Crimes Act 1961”

Repeal the definition of **crime involving dishonesty** in section 2(1) and substitute the following definition:

“**crime involving dishonesty** means any crime described in Part 10 of the Crimes Act 1961, except the crimes described in sections 267 to 272.”

Omit from section 11(2) the words “colour of right” and substitute the words “claim of right”.

Repeal section 45(3), and substitute:

“(3) If any person is convicted of an offence against section 14, the Court may, if it thinks fit, order the instrument or instruments to be forfeited to the Crown or disposed of as the Court directs at the expense of the convicted person, and may order the per-

son to pay any reasonable cost incurred by the Commissioner of Police in retaining the instrument or instruments.”

Omit from Part 1 of Schedule 3 the items relating to sections 234, 235, 237, 294, 296, and 298 of the Crimes Act 1961 and substitute:

234	Robbery
235	Aggravated robbery
236	Assault with intent to rob
267	Arson
269	Intentional damage

Summary Proceedings Act 1957 (1957 No 87)

Repeal subparagraphs (iv) to (xi) of section 186(c) and substitute:

“(iv) section 267 (which relates to arson):

“(v) section 269 (which relates to intentional damage):

“(vi) section 270 (which relates to endangering transport):

“(vii) section 271 (which relates to waste or diversion of electricity, gas, or water).”

Omit from Part 1 of the Schedule 1 the heading and all the items under the heading relating to Part 10 of the Crimes Act 1961 and substitute:

“Part 10

“Crimes against rights of property”

219	Theft or stealing
226	Conversion of vehicle or other conveyance
227	Being in possession of instrument for conversion
228	Dishonestly taking or using document
229	Criminal breach of trust

Part 10—*continued*

230	Taking, obtaining, or copying trade secrets
231	Burglary
233	Being disguised or in possession of instrument for burglary
234	Robbery
236	Assault with intent to rob
239	Demanding with intent to steal, etc
240	Obtaining by deception
242	False statement by promoter, etc
243	Money laundering
246	Receiving
249	Accessing computer system for dishonest purpose
250	Damaging or interfering with computer system
256	Forgery
257	Using forged documents
258	Altering, concealing, destroying, or reproducing document with intent to deceive
259	Using altered or reproduced document with intent to deceive
260	False accounting

Part 10—*continued*

261	Counterfeiting public seals
262	Counterfeiting corporate seals
263	Possessing forged bank notes
264	Paper or implements for forgery
265	Imitating authorised or customary marks
266	Offences involving coinage
267(2) and (3)	Arson
268	Attempted arson
269	Intentional damage
270	Endangering transport
271	Waste or diversion of electricity, gas, or water
272	Providing explosive to commit crime

Schedule 2

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Acts relating to listening devices amended**Evidence Act 1908 (1908 No 56)**

Omit from the heading to section 23B the words “listening device” and substitute the words “interception device”.

Omit from section 23B(1) the words “a listening device” and substitute the words “an interception device”.

International Terrorism (Emergency Powers) Act 1987 (1987 No 179)

Repeal the definitions of **intercept** and **private communication** in section 2(1) and substitute, respectively:

“**intercept**, in relation to a private communication, includes hear, listen to, record, monitor, acquire, or receive the communication either—

“(a) while it is taking place; or

“(b) while it is in transit

“**private communication** —

“(a) means a communication (whether in oral or written form or otherwise) made under circumstances that may reasonably be taken to indicate that any party to the communication desires it to be confined to the parties to the communication; but

“(b) does not include such a communication occurring in circumstances in which any party ought reasonably to expect that the communication may be intercepted by some other person not having the express or implied consent of any party to do so.”

Omit from section 10(3)(a) the word “telephone” and substitute the word “telecommunications”.

Omit from section 10(3)(b) the word “telephonic”.

Misuse of Drugs Amendment Act 1978 (1978 No 65)

Repeal the definitions of **intercept** and **private communication** in section 10(1) and substitute, respectively:

“**intercept**, in relation to a private communication, includes hear, listen to, record, monitor, acquire, or receive the communication either—

“(a) while it is taking place; or

“(b) while it is in transit

“**private communication**—

“(a) means a communication (whether in oral or written form or otherwise) made under circumstances that may reasonably be taken to indicate that any party to the communication desires it to be confined to the parties to the communication; but

“(b) does not include such a communication occurring in circumstances in which any party ought reasonably to expect that the

communication may be intercepted by some other person not having the express or implied consent of any party to do so.”

Repeal the definition of **listening device** in section 10(1).

Insert in section 10(1), in their appropriate alphabetical order:

“**facility** means an electronic address, phone number, or similar facility that enables private communications to—

“(a) take place between individuals; or

“(b) be sent to or from an identified individual

“**interception device**—

“(a) means any electronic, mechanical, or electromagnetic instrument, apparatus, equipment, or other device that is used or is capable of being used to intercept a private communication; but

“(b) does not include a hearing aid or similar device used to correct subnormal hearing of the user to no better than normal hearing.”

Omit from sections 10(1), 14(1), 15(1)(b), 15A(1), 15B(1)(b), 16(1)(d) and (2), 17, 25(1) and (4), and 29 the words “a listening device” wherever they appear and substitute in each case the words “an interception device”.

Omit from section 28(3) and (4) the words “listening device” wherever they appear and substitute in each case the words “interception device”.

Repeal section 14(2)(c) and substitute:

“(c) the name and address, if known, of the suspect whose private communications there are reasonable grounds for believing will assist the police investigation of the case or, if the name and address of the suspect are not known, a general description of the premises, place, thing, or type of facility in respect of which it is proposed to intercept private communications, being premises or a place, thing, or type of facility believed to be used for any purpose by any person involved in the drug dealing offence; and.”

Repeal section 15A(2)(c) and substitute:

“(c) the name and address, if known, of the suspect whose private communications there are reasonable grounds for believing will assist the police investigation of the case or, if the name

and address of the suspect are not known, a general description of the premises, place, thing, or type of facility in respect of which it is proposed to intercept private communications, being premises or a place, thing, or type of facility believed to be used for any purpose by any member of the organised criminal enterprise; and.”

Repeal section 16(1)(b) and substitute:

“(b) state,—

“(i) in the case of a warrant granted under section 15, the name and address of the suspect, if known, whose private communications may be intercepted or, if the suspect’s name and address are not known, the premises, place, thing, or type of facility in respect of which private communications may be intercepted, being premises or a place, thing, or type of facility believed to be used for any purpose by any person involved in the drug dealing offence; or

“(ii) in the case of a warrant granted under section 15B, the name and address of the suspect, if known, whose private communications may be intercepted or, if the suspect’s name and address are not known, the premises, place, thing, or type of facility in respect of which private communications may be intercepted, being premises or a place, thing, or type of facility believed to be used for any purpose by any member of the organised criminal enterprise; and.”

Insert in section 19(1) after the words “a particular place” the words “or a particular thing or a particular type of facility”.

Omit from the headings to sections 21 and 22 the words “listening device” and substitute in each case the words “interception device”.

Insert in section 24(b) after the word “place” the words “(if known)”.

Police Act 1958 (1958 No 109)

Omit from section 65(3) the words “a listening device” and substitute the words “an interception device”.

Telecommunications Act 2001 (2001 No 103)

Repeal sections 114 and 115.

Legislative history

7 September 1999

Introduction and first reading (Bill 322-1)

5 October 1999

Second reading and referral to the Justice and Law Reform Committee

20 July 2001

Reported from Justice and Electoral Committee

1 July 2003

Committee of the whole House, third reading.
